

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ISAIAH PIKARSKI, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JULIE PIKARSKI,

Respondent-Appellant.

UNPUBLISHED

August 17, 2006

No. 267658

Macomb Circuit Court

Family Division

LC No. 2005-059097-NA

Before: Whitbeck, C.J., and Hoekstra and Wilder, JJ.

MEMORANDUM.

Respondent Julie Pikarski appeals as of right from the trial court order terminating her parental rights to Isaiah Pikarski.¹ We affirm. This appeal is being decided without oral argument.²

The trial court did not clearly err by finding that the statutory grounds for termination were established by clear and convincing evidence.³ The record established that Julie Pikarski's parental rights to three other children, Jordan, Nicholas, and Allayh Pikarski, were previously terminated. In previous proceedings, the Oakland Circuit Court found that Nicholas Pikarski suffered physical injury because of Julie Pikarski's actions and terminated her parental rights to that child under MCL 712A.19b(3)(b)(i). Given Julie Pikarski's failure to attend counseling and parenting classes or to maintain stable housing during those previous proceedings, and her failure

¹ MCL 712A.19b(3)(b) (authorizing termination when a sibling of child suffered physical injury caused by parent's act or failure to act); MCL 712A.19b(3)(g) (authorizing termination for failure to provide proper care or custody); MCL 712A.19b(3)(i) (authorizing termination when parental rights to one or more siblings of child have been terminated and prior attempts to rehabilitate parent has been unsuccessful); MCL 712A.19b(3)(j) (authorizing termination when there is a reasonable likelihood of harm should child return to parent's home).

² MCR 7.214(E).

³ MCR 3.977(J); *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

to engage in any regular counseling until shortly before the termination trial in this matter, the trial court did not clearly err by finding a reasonable likelihood that the child would be injured or abused if placed in Julie Pikarski's care. The failure of previous rehabilitative efforts is also demonstrated by Julie Pikarski's continued use of cocaine while pregnant with Allayh Pikarski and again while pregnant with Isaiah Pikarski.

Julie Pikarski failed to provide proper care and custody for Isaiah Pikarski by using cocaine while she was pregnant with him.⁴ There appeared no reasonable likelihood that she would be in a position to provide proper care and custody within a reasonable time, as she resided in a shelter without definite prospects for housing at the time of the termination trial, had attended only one or two counseling sessions, and had maintained sobriety for only two months.⁵ The conclusion is only underscored by Julie Pikarski's testimony that she intends to live with Thomas McFarland, whose rights to three children have been terminated, and who assisted Julie Pikarski in obtaining cocaine while she was pregnant with Isaiah Pikarski.

The trial court did not clearly err in its best interests determination.⁶ Isaiah Pikarski was removed from Julie Pikarski's care at birth or shortly thereafter. Her continued recovery was uncertain, she was still living in a shelter, and she intended to care for the child with a man whose parental rights to three children has been terminated, and who helped her acquire cocaine while she was pregnant. On this record, there is no basis to conclude that termination was clearly contrary to the best interests of the child.

Affirmed.

/s/ William C. Whitbeck

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder

⁴ See *In re Nash*, 165 Mich App 450, 456; 419 NW2d 1 (1987); *In re Gentry*, 142 Mich App 701, 708; 369 NW2d 889 (1985).

⁵ See *In re Trejo*, 462 Mich 341, 360; 612 NW2d 407 (2000); *In re Conley*, 216 Mich App 41, 43-44; 549 NW2d 724 (1998).

⁶ MCL 712A.19b(5); *In re Trejo*, *supra* at 353, 356-357.